IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14973US02)

In the Application of:

Marcus Kellerman, et al.

Serial № 10/674,672

Filed: September 30, 2003

For: SUPPORTING MULTIPLE USERS FROM A SINGLE LOCATION SHARING A MEDIA PROCESSING SYSTEM VIA A PERSONAL MEDIA GUIDE

Examiner: John R. Schnurr

Group Art Unit: 2421

Confirmation № 5006

Electronically filed on April 20, 2011

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated December 20, 2010 ("Final Office Action"), in which claims 1-29 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences ("Board") reverses the final rejection of claims 1-29 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on April 20, 2011, with a one-month extension.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014264, Frame 0574 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

The Appellant is unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-29, all of which stand rejected under 35 U.S.C. § 103(a). *See* the Final Office Action at page 3. The Appellant identifies claims 1-29 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Appellant has not amended any claims subsequent to the final rejection of claims 1-29 mailed on December 20, 2010.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

The Appellant has inserted Figs. 1A-2 of the present application below to illustrate exemplary support for several aspects of the invention.

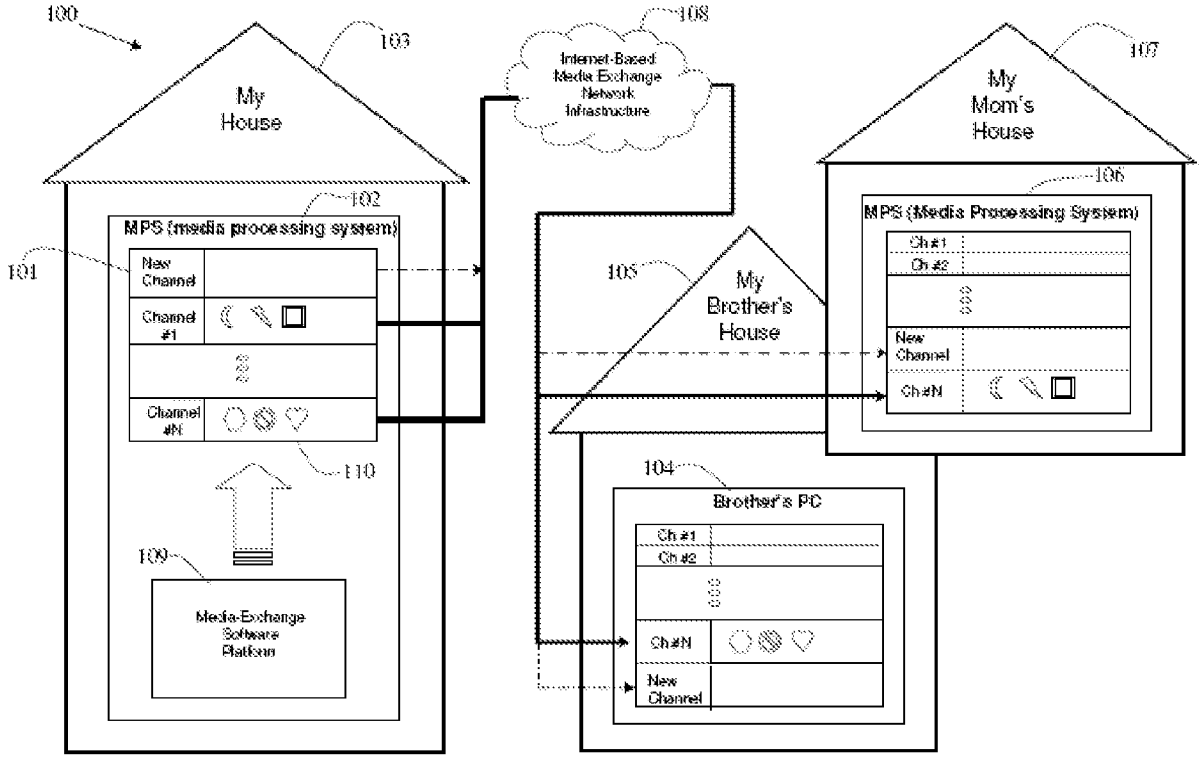


Fig. 1A

Fig. 1B

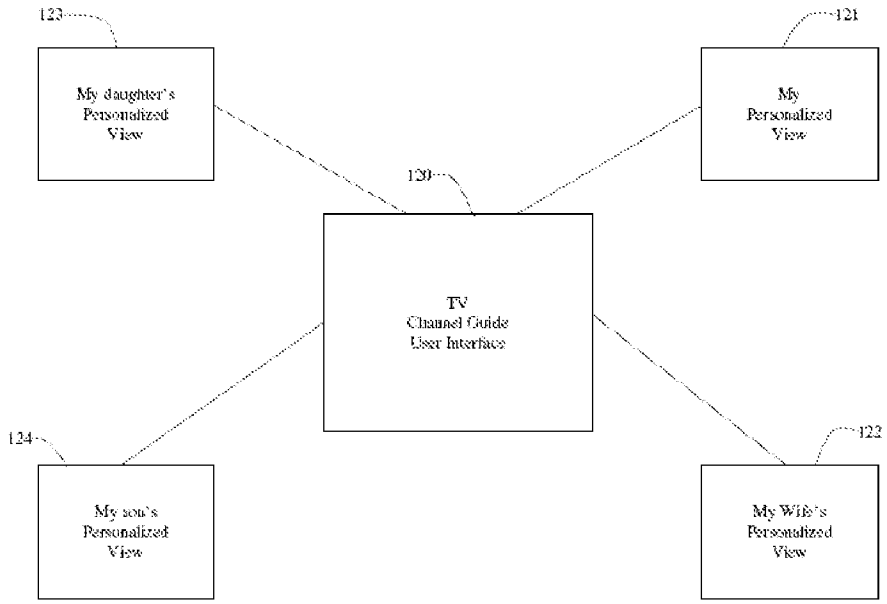

123
My daughter's Personalized View
121
My Personalized View
120
TV Channel Guide User Interface
124
My son's Personalized View
122
My Wife's Personalized View

Fig. 1C

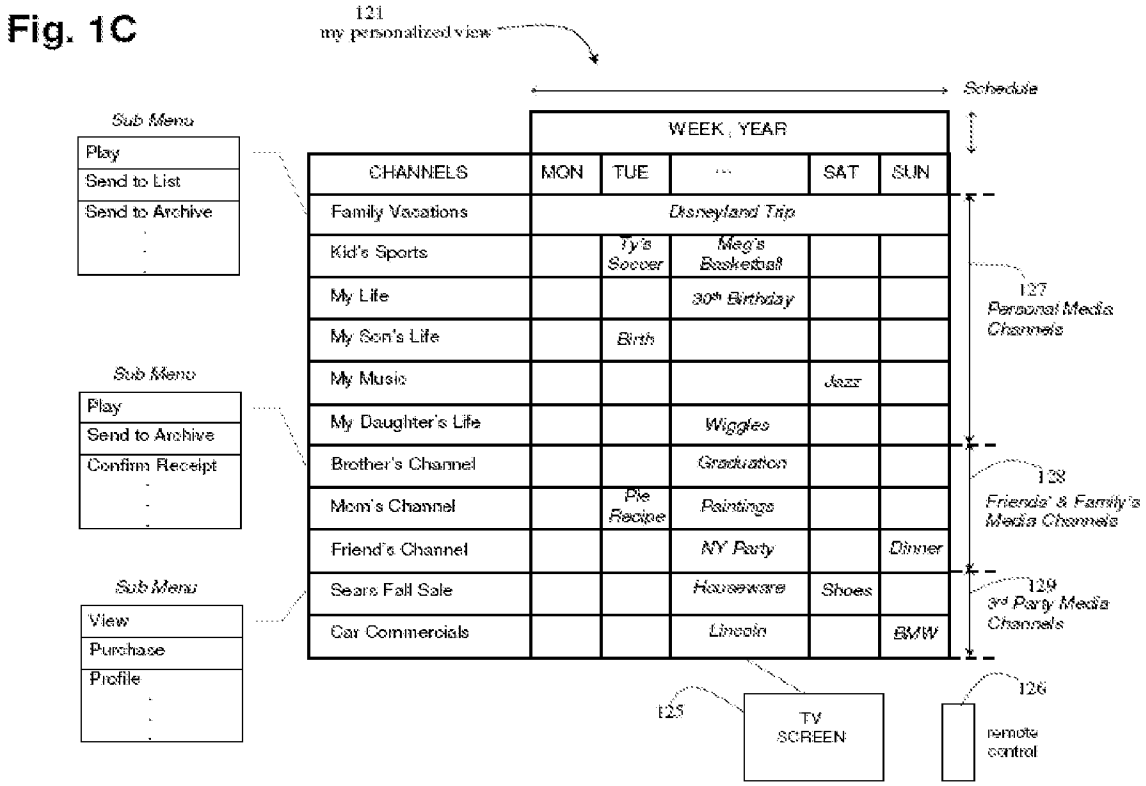
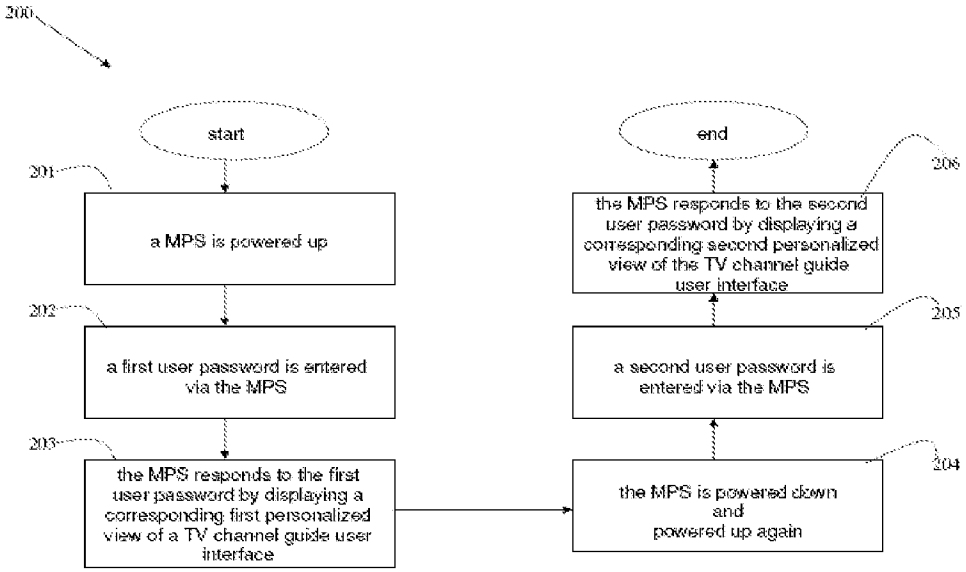

121
my personalized view
Schedule
Sub Menu
Play
Send to List
Send to Archive
Sub Menu
Play
Send to Archive
Confirm Receipt
Sub Menu
View
Purchase
Profile
WEEK , YEAR
CHANNELS
MON
TUE
...
SAT
SUN
Family Vacations
Disneyland Trip
Kid's Sports
Ty's Soccer
Meg's Basketball
My Life
30th Birthday
My Son's Life
Birth
My Music
Jazz
My Daughter's Life
Wiggles
Brother's Channel
Graduation
Mom's Channel
Pie Recipe
Paintings
Friend's Channel
NY Party
Dinner
Sears Fall Sale
Housewares
Shoes
Car Commercials
Lincoln
BMW
127
Personal Media Channels
128
Friends' & Family's Media Channels
129
3rd Party Media Channels
125
TV SCREEN
126
remote control

Fig. 2



Independent claim 1 recites the following:

A system[1] for supporting multiple users of a communication device, comprising:

a first communication device[2] communicatively coupled to a communication network[3] at a first geographic location[4];

media content[5] disposed in the communication network or the first communication device, the media content comprising personal media[6]; and

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[1] *See* present specification, e.g., p. 4, ¶10, ll. 1-3, such as media exchange network (100), also see Fig. 1.
[2] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[3] *See id.*, e.g., p. 4, ¶11, ll. 2-3, also p. 8, ¶30, ll. 8-9, such as internet-based media exchange network structure (108) in Fig. 1A.
[4] *See id.*, e.g., ¶30, ll. 6-7, such as at "My House" (103) in Fig. 1A.

a software platform[7] residing on the first communication device[8], the software platform receiving authentication information[9] associated with a first user[10] of the first communication device, and facilitating a display of a user-defined selection[11] from the media content by the first communication device in a user-defined layout[12],

wherein the software platform [13]is operable to push the media content[14] arranged in the user-defined layout, directly via the communication network to at least a second communication device[15] associated with a second user[16] at a second geographic location for consumption at the second geographic location[17], and wherein the selection

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[5] *See id.*, e.g., p. 4, ¶10, ll. 6-7.
[6] *See id.*, e.g., p. 4, ¶10, ll. 7-8, also p. 13, ¶51, ll. 5-7, such as personal digital media channels (digital pictures, digital video, digital audio) in Fig. 1C.
[7] *See id.*, e.g., p. 4, ¶10, ll. 8-9, also p. 8, ¶31, ll. 3-4, such as Media Exchange Software Platform (MES) (109) in Fig. 1A.
[8] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[9] *See id.*, e.g., p. 4, ¶10, ll. 9-10, authentication with a user password via the MPS in step (202) in Fig. 2.
[10] *See id.*, e.g., p. 13, ¶48, ll. 2-6, individual users such as each of the multiple family members.
[11] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[12] *See id.*, e.g., p. 4, ¶10, ll. 9-11, personalized view (121) in Fig. 1C.
[13] *See id.*, e.g., p. 4, ¶10, ll. 8-9, also p. 8, ¶31, ll. 3-4, such as Media Exchange Software Platform (MES) (109) in Fig. 1A.
[14] *See id.*, e.g., p. 11, ¶42, ll. 7-8, also p. 14, ¶56, ll. 1-4, to be viewed as media channels by another authorized user (such as friends or family members).
[15] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as PC (104) in "Brother's House" (105) or MPS (106) in "Mom's House" (107) in Fig. 1A.
[16] *See id.*, e.g., p. 13, ¶48, ll. 2-6, other users such as another family members or friends.
[17] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as "Brother's House" (105) or "Mom's House" (107) in Fig. 1A.

from the media content is defined by the first user[18] and corresponds to the received authentication information.

Claims 2-11 are dependant directly or indirectly upon independent claim 1.

Independent claim 12 recites the following:

A system[19] for supporting multiple users[20] of a communication device, comprising:

at least one processor[21] disposed in a first communication device[22], the first communication device being communicatively coupled to a communication network[23], the at least one processor receiving information related to a user-defined selection[24] from media content[25] available on one or both of the communication network and/or the first communication device, the at least one processor receiving authentication

[18] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[19] *See id.*, e.g., p. 4, ¶10, ll. 1-3, such as media exchange network (100), also see Fig. 1.
[20] *See id.*, e.g., p. 13, ¶48, ll. 2-6, individual users such as each of the multiple family members.
[21] *See id.*, e.g., p. 8, ¶32, ll. 1-2, processor to run MMS software in a PC or set-top box.
[22] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[23] *See id.*, e.g., p. 4, ¶11, ll. 2-3, also p. 8, ¶30, ll. 8-9, such as internet-based media exchange network structure (108) in Fig. 1A.
[24] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[25] *See id.*, e.g., p. 4, ¶10, ll. 6-7.

information[26] associated with a first user of the first communication device, and analyzing the authentication information to determine whether to display[27] the user-defined selection via the first communication device in a user-defined layout[28], wherein the at least one processor is operable to push the media content[29] arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user[30] at a second geographic location for consumption at the second geographic location[31], and wherein the selection from the media content is defined by the first user[32] and corresponds to the received authentication information.

Claims 13-15 are dependant directly or indirectly upon independent claim 12.

Independent claim 16 recites the following:

A system[33] for supporting multiple users[34] of a communication device, comprising:

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[26] *See id.*, e.g., p. 4, ¶10, ll. 9-10, authentication with a user password via the MPS in step (202) in Fig. 2.
[27] *See id.*, e.g., p. 4, ¶11, ll. 6-9.
[28] *See id.*, e.g., p. 4, ¶10, ll. 9-11, personalized view (121) in Fig. 1C.
[29] *See id.*, e.g., p. 11, ¶42, ll. 7-8, also p. 14, ¶56, ll. 1-4, to be viewed as media channels by another authorized user (such as friends or family members).
[30] *See id.*, e.g., p. 13, ¶48, ll. 2-6, other users such as another family members or friends.
[31] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as "Brother's House" (105) or "Mom's House" (107) in Fig. 1A.
[32] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[33] *See id.*, e.g., p. 4, ¶10, ll. 1-3, such as media exchange network (100), also see Fig. 1.

a first display[35], communicatively coupled to a first communication device[36],, the first communication device associated with a first user[37];

a second display[38] communicatively coupled to a second communication device[39], the second communication device associated with a second user[40];

a communication network[41] communicatively coupled to the first communication device and the second communication device;

media content[42] disposed in one or more of the communication network, the first communication device and/or the second communication device; and

a software platform[43] residing on the first communication device[44], the software platform is operable to receive information relating to a user-defined selection[45] from the

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[34] *See id.*, e.g., p. 13, ¶48, ll. 2-6, individual users such as each of the multiple family members.
[35] *See id.*, e.g., p. 4, ¶12, ll. 3-4.
[36] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[37] *See id.*, e.g., p. 13, ¶48, ll. 2-6, individual users such as each of the multiple family members.
[38] *See id.*, e.g., p. 4, ¶12, ll. 4-5.
[39] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as PC (104) in "Brother's House" (105) or MPS (106) in "Mom's House" (107) in Fig. 1A.
[40] *See id.*, e.g., p. 13, ¶48, ll. 2-6, other users such as another family members or friends.
[41] *See id.*, e.g., p. 4, ¶11, ll. 2-3, also p. 8, ¶30, ll. 8-9, such as internet-based media exchange network structure (108) in Fig. 1A.
[42] *See id.*, e.g., p. 4, ¶10, ll. 6-7.
[43] *See id.*, e.g., p. 4, ¶10, ll. 8-9, also p. 8, ¶31, ll. 3-4, such as Media Exchange Software Platform (MES) (109) in Fig. 1A.
[44] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[45] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.

media content and push the media content[46] arranged in a user-defined layout, directly via the communication network to the second communication device[47], for consumption at the location[48] of the second communication device, and wherein the selection from the media content is defined by the first user[49] and corresponds to authentication information[50] received from the first user.

Claims 17-26 are dependant directly or indirectly upon independent claim 16.

Independent claim 27 recites the following:

A method to support multiple personalized views[51] for users of a communication device, comprising:

entering a first set of authentication information[52] via a first communication device[53] communicatively coupled to a communication network[54], the first set of

[46] *See id.*, e.g., p. 11, ¶42, ll. 7-8, also p. 14, ¶56, ll. 1-4, to be viewed as media channels by another authorized user (such as friends or family members).
[47] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as PC (104) in "Brother's House" (105) or MPS (106) in "Mom's House" (107) in Fig. 1A.
[48] *See id.*, e.g., p. 11, ¶40, ll. 5-6, such as "Brother's House" (105) or "Mom's House" (107) in Fig. 1A.
[49] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[50] *See id.*, e.g., p. 4, ¶10, ll. 9-10, authentication with a user password via the MPS in step (202) in Fig. 2.
[51] *See id.*, e.g., p. 8, ¶30, ll. 1-2.
[52] *See id.*, e.g., p. 4, ¶10, ll. 9-10, authentication with a user password via the MPS in step (202) in Fig. 2.

authentication information associated with a first user[55] of the first communication device and corresponding to a first user-defined selection[56] from media content[57].

displaying the first user-defined selection in a first user-defined layout[58] by the first communication device upon validation[59] of the first set of authentication information;

resetting[60] the first communication device so that a second set of authentication information may be entered on the first communication device;

entering[61] the second set of authentication information via the first communication device, the second set of authentication information associated with a second user of the first communication device and corresponding[62] to a second user-defined selection from the media content;

displaying[63] the second user-defined selection in a second user-defined layout by the first communication device upon validation of the second set of authentication

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[53] *See id.*, e.g., p. 4, ¶12, ll. 3-4, also p. 8, ¶31, ll. 1-3, such as media Processing System (MPS) (102) in Fig. 1A, such as a set-top box (STB), a PC or a TV with a media management system (MMS).
[54] *See id.*, e.g., p. 4, ¶11, ll. 2-3, also p. 8, ¶30, ll. 8-9, such as internet-based media exchange network structure (108) in Fig. 1A.
[55] *See id.*, e.g., p. 13, ¶48, ll. 2-6, individual users such as each of the multiple family members.
[56] *See id.*, e.g., p. 11, ¶42, ll. 1-10, such as first user logs in with a password to manipulate his personalized view (121) of a TV channel guide interface (110) to create new channel, delete existing channel and push to another user in Figs. 1A-1C.
[57] *See id.*, e.g., p. 4, ¶10, ll. 6-7.
[58] *See id.*, e.g., p. 4, ¶10, ll. 9-11, personalized view (121) in Fig. 1C.
[59] *See id.*, e.g., p. 5, ¶13, ll. 5-7.
[60] *See id.*, e.g., p. 5, ¶13, ll. 7-8.
[61] *See id.*, e.g., p. 5, ¶13, ll. 8-9.
[62] *See id.*, e.g., p. 5, ¶13, ll. 10-11.
[63] *See id.*, e.g., p. 5, ¶13, ll. 11-12.

information, and wherein the first selection is defined by the first user and the second selection is defined by the second user; and

pushing the media content[64] arranged in one or both of the first user-defined layout and/or the second user-defined layout[65], directly via the communication network to at least a second communication device associated with a third user[66] for consumption at the location of the third user.

Claims 28-29 are dependant directly or indirectly upon independent claim 27.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USP 6,774,926 ("Ellis").

[64] *See id.*, e.g., p. 11, ¶42, ll. 7-8, also p. 14, ¶56, ll. 1-4, to be viewed as media channels by another authorized user (such as friends or family members).
[65] *See id.*, e.g., p. 4, ¶10, ll. 9-11, personalized view (121) in Fig. 1C.
[66] *See id.*, e.g., p. 13, ¶48, ll. 2-6, other users such as another family members or friends.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

In the Final Office Action, claims 1-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over USPP 2002/0104099 ("Novak") in view of USP 6,774,926 ("Ellis").

Rejection Under 35 U.S.C. § 103

The MPEP states the following regarding the requirements for establishing a *prima facie* case of obviousness:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" *See id.,* § 2143.01. Furthermore, in order to render the claims obvious, the asserted prior art combination must **teach or suggest each and <u>every</u> claim feature**. *See In re Royka*, 490 F.2d 981 (CCPA 1974) (to

establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art)[67]; *see also In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (A proper obviousness determination requires that an Examiner make "a searching comparison of the claimed invention – **including all its limitations** – with the teaching of the prior art.")

If a *prima facie* case of obviousness is not established, the Appellant has no obligation to submit evidence of non-obviousness:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

With these principles in mind, the Appellants now turn to the claim rejections in particular.

I. The Proposed Combination of Novak and Ellis Does Not Render Claims 1-29 Unpatentable

A. Independent Claims 1, 12, 16 and 27

A(1). Novak's Does Not Disclose a Software Program Operable to Push the Media Content Directly (via the Communication Network) to a Second Communication Device of a Second User for Consumption at a Second Geographical Location

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Appellant submits that the combination of Novak and Ellis does not disclose or suggest

[67] Emphasis added except where noted otherwise.

at least the limitation of "the software platform is operable to push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Appellant's claim 1.

The Final Office Action (see pages 3-4) states the following:

> Consider claim 1, Novak clearly teaches a system for supporting multiple users of a communication device (Fig. 1), comprising:
>
> a first communication device communicatively coupled to a communication network at a first geographic location; (Fig. 3: STB 308 is coupled to the Internet 302, [0045].)
>
> media content disposed in the communication network or the first communication device (Media content can be stored in the STB, Fig. 1 [0032], or on the network, Fig. 3 [0047].), the media content comprising personal media; (The content is user created, [0062].)
>
> a software platform residing on the first communication device ([0077]), the software platform receiving authentication information associated with a first user of the first communication device, (Fig. 11: Access to the synthetic channel can be password protected, [0084].) and facilitating a display of a user-defined selection from the media content by the first communication device (Fig. 11: Block 114, [0085]) in a user-defined layout (Fig. 7: The user defines the layout of the display, [0063].), wherein the software platform is operable to push the media content
>
> wherein the selection from the media content is defined by the first user ([0062]) and corresponds to the received authentication information. (Only authorized users can view the content, [0084]).

The Appellant has inserted Novak's Fig. 1 to help clarify Appellant's arguments:

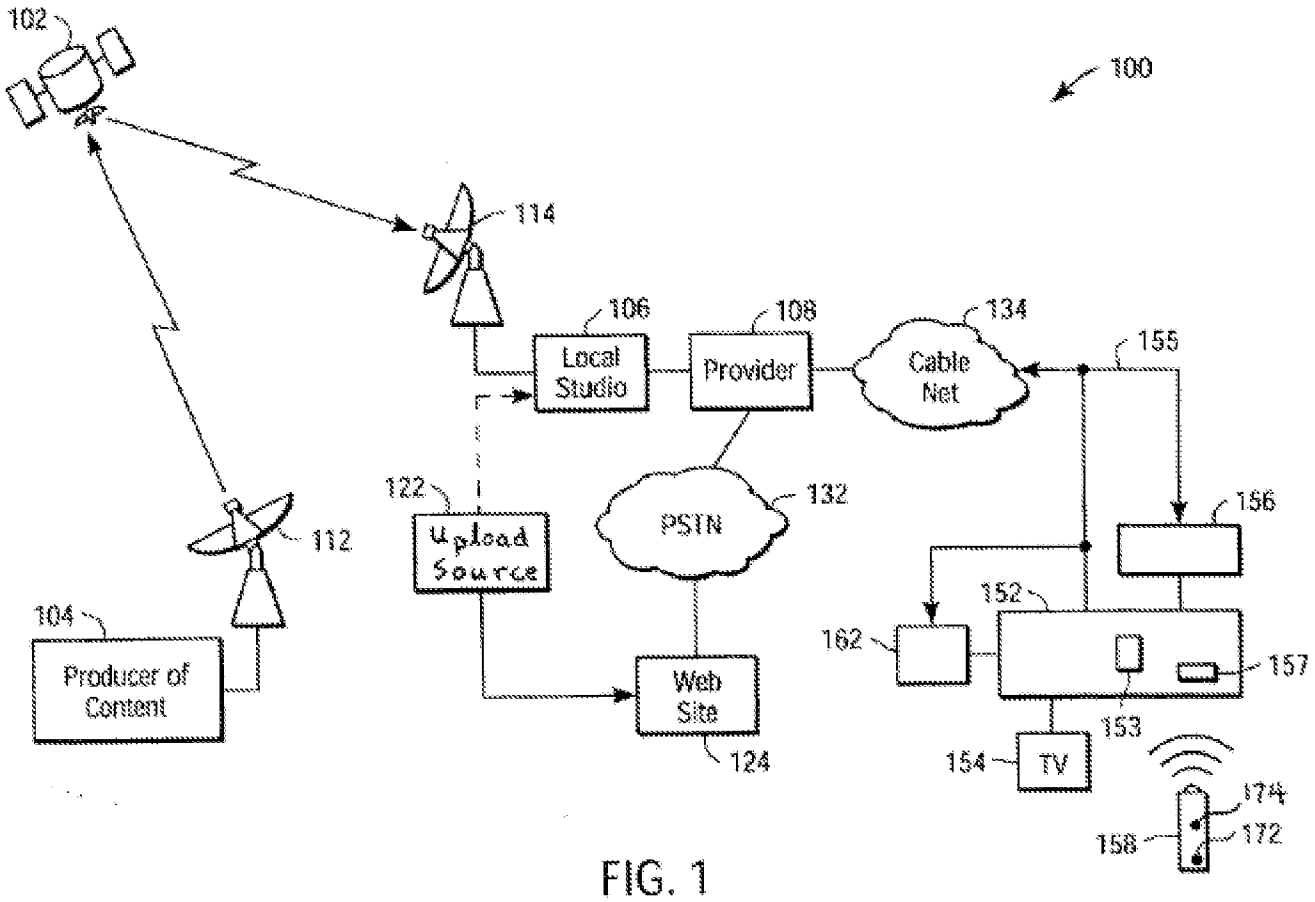

FIG. 1

The Examiner relies for support on Novak's Figs. 1 and 3, and equates Novak's upload source (122) (such as a PC or a set-top box STB) to Appellant's "first communication device … at a first geographical location", Novak's internet (302) (or cable net (134)) to Appellant's "communication network".

The Examiner also equates Novak's media content stored in the STB and Novak's user STB (152) to Appellant's "personal media" and "second communication device at a second geographical location".

The Examiner further equates Novak's (*see* Novak's ¶¶[0077-0078]) software program in a STB to the alleged "software platform", and the media objects created as synthetic channels for display on an interface (*see* Novak's Fig. 7) to Appellant's "display of a user-defined selection from the media content…in a user-defined layout."

The Appellant points out that Novak (*see* Fig. 1), however, discloses that the media content (the alleged "personal media") are uploaded into one or more other locations (such as a website (124), a local studio (106) or a network service provider (108)) and stored, prior to being transferred to (but only upon request) and viewed on a STB/TV (153/154) at the end user location (the alleged "second communication device associated with a second user at a second geographical location"). For example, the Examiner is referred to the following citation of Novak (*see* Novak's ¶[0080]) (emphasis added), which states in part:

> "…Several techniques, singly or in combination, can be made available to subscribe the end user. For instance, **the upload source 122 or the end user can contact the cable service provider 108 and request that the synthetic channel be added to the EPG 153**, in a manner similar to the end user requesting a subscription to a conventional cable television channel. A subscription token can be emailed to the end user as an attachment, from the upload source 122 or from another party. When installed or launched, the subscription token updates the EPG 153 stored in the set top box 152 to **add the synthetic channel as an available channel and interfaces the set top box 152 with the local studio 106, the cable service provider 108, and/or the website 124 so that the EPG 153 can receive media program listings and/or the set top box 152 can receive the media programs themselves**…"

As seen in the above citation, Novak clearly discloses that the end user receives the media programs through the local studio (106), the cable service provider (108) or

the website (124), but only after a required "request" is made. More specifically, the upload source 122 (the alleged first communication device … at a first geographical location) or the user STB 152 (the alleged second communication device at a second geographical location) must "contact the cable service provider 108 *and request* that the synthetic channel be added to the EPG 153." By requiring that a "request" be performed before transferring the stored media, Novak teaches the exact opposite of a "push" – that is, Novak teaches a "pull" – and thus cannot correspond to Appellant's claim. Even if, by some mischaracterization of the disclosure of Novak, this were considered a "push" (a point the Appellant does not concede), the push would necessarily be performed by the cable service provider, and thus cannot be performed by the claimed "software platform", which, as the claim makes clear, resides on the "first communication device … at [the] first geographic location". Moreover, in either case, a transfer that first requires storage to await a request before proceeding, certainly cannot be construed to cover a transfer that occurs "directly via the communication network" as claimed.

Therefore, Novak at least does not disclose or suggest "**the software platform is operable to push the media content arranged in the user-defined layout, directly** via the communication network **to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location**," as recited in Appellant's claim 1.

In addition, the Appellant further points out that Novak's program (the alleged "software platform"), in fact, teaches away from "**the software platform is operable to**

push the media content ... directly via the communication network **to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location**," as recited in Appellant's claim 1.

The Examiner therefore necessarily concedes the following in the Final Office Action (*see* page 4):

> "However, Novak does not explicitly teach the software platform is operable to push content arranged in user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location.

A(2). The Examiner Has Failed To Show That Ellis Overcomes Novak's Deficiencies

The Examiner then looks for support to Ellis to disclose Novak's above deficiency and states the following:

> "In an analogous art, Ellis, which discloses a system for video distribution, clearly teaches the software platform is operable to push content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location. (Fig. 7: Contributor equipment 102 selects when to push personal television channels to viewer equipment 104. The
>
> Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Novak by pushing content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for

> consumption at the second geographic location, as taught by Ellis, for the benefit of distributing a personal television channel without need of network storage devices."

The Examiner relies for support on Ellis' Fig. 7, and equates Ellis' Contributor User Equipment (102) and Viewer User Equipment (104) to Appellant's "first communication device in a first geographical location" and "second communication device associated with a second user in a second geographical location", respectively.

The Examiner however, alleges that Ellis (*see* col. 5 ll. 18-22, col. 7, ll. 27-47, col. 13, l. 66 to col. 14, l. 22) discloses that the video content can be sent directly without initially transmitting the content to server equipment. Contrary to the Examiner's above allegation, the Appellant points out that the Examiner seems to have misconstrued Ellis. The Appellant has inserted Ellis' Fig. 7 (see below) to help clarify Appellant's arguments:

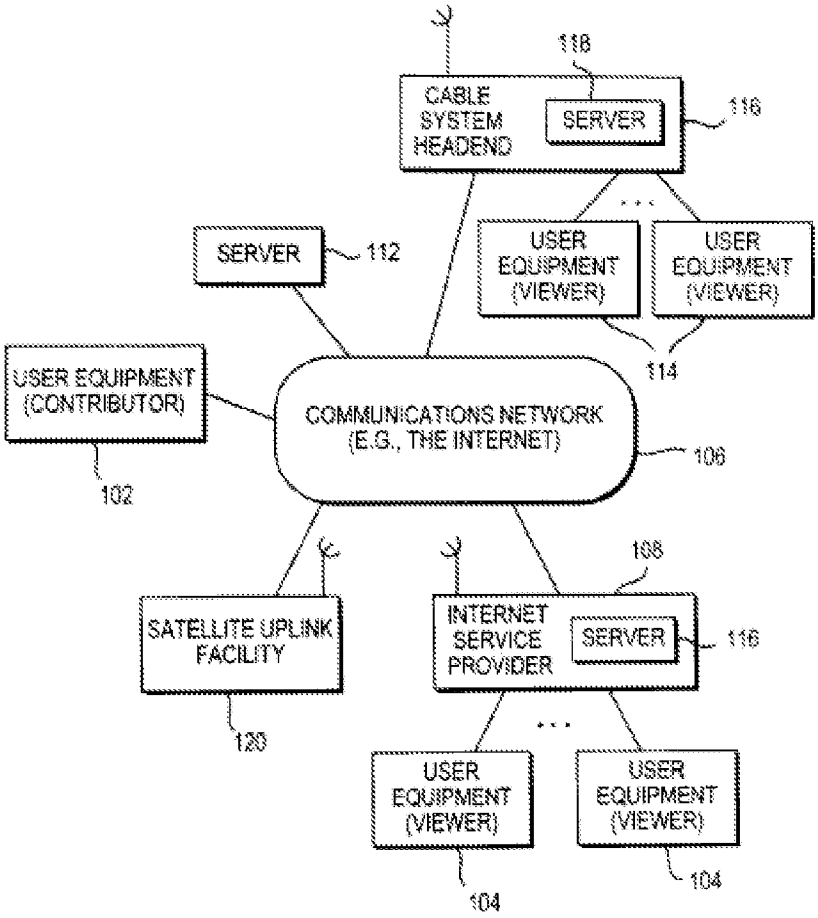

FIG. 7

As seen, Ellis' Fig. 7 clearly discloses that the Viewer User Equipment (104) (the alleged "second communication device … in a second geographical location" is connected to a server (106) of an Internet Service Provider (ISP) (108). In this regard, Ellis does not disclose or suggest that the alleged "media content" is "directly communicated" to "the second communication device in a second geographical location".

Ellis clearly discloses that the video created (the alleged "media content") by the Contributor User Equipment (102) (the alleged "first communication device at the first geographical location") are first transmitted to a server (110) located at the ISP (108), necessarily stored at the ISP (108), and then redistributed (upon demand or in accordance with a schedule) to the Viewer equipment (104) (the alleged "second communication device at a second geographical location").

In this regard, for the same reasons discussed above with respect to Novak, Ellis also does not disclose "**the software platform is operable to push the media content … directly** via the communication network **to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location**," as recited in Appellant's claim 1.

As additional support for Applicant's position, the Examiner is also referred to Ellis' Fig. 1:

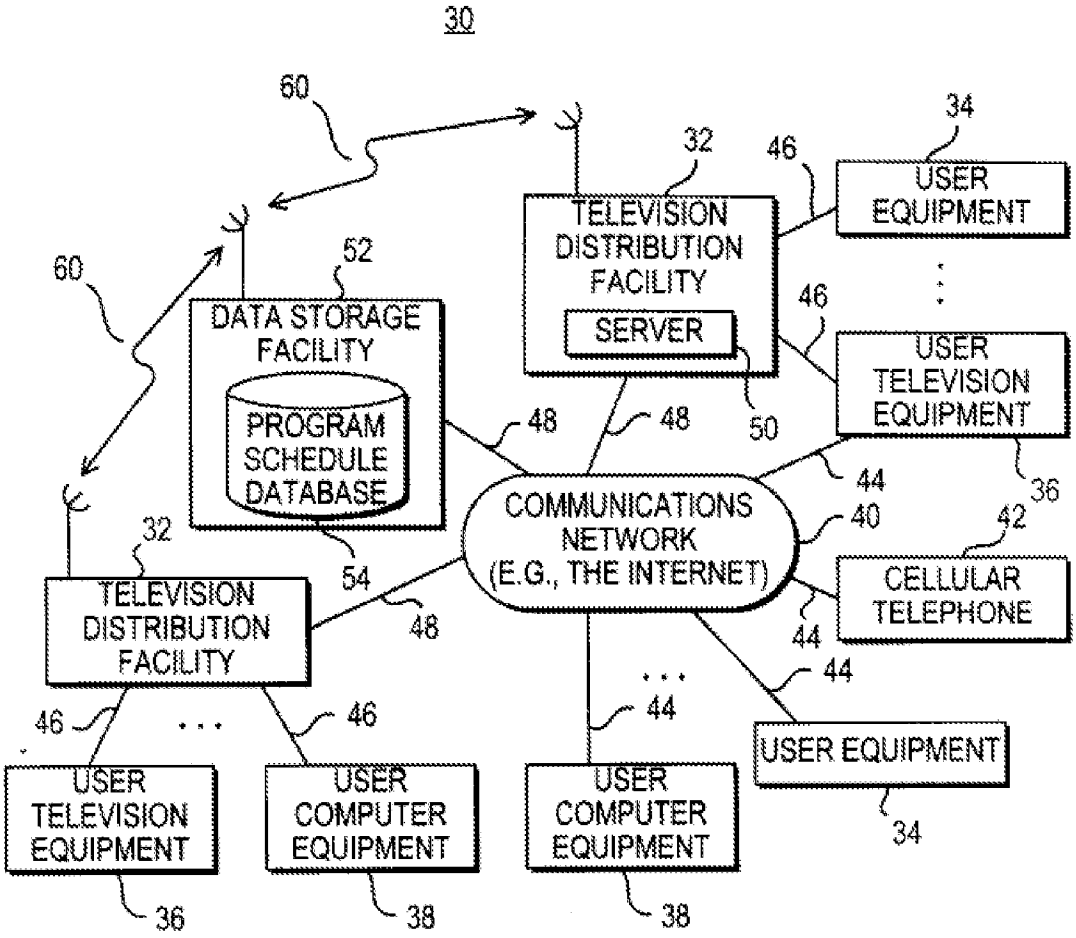

FIG. 1

The Examiner is further referred to the following citation of Ellis (see col. 7, ll. 27-47) (emphasis added):

> "At step 234, **personal television channel program schedule information may be collected from the contributors. The schedule information may be supplemented at data storage facility 52 to include information that system 30 and viewer equipment 34 used to determine how to access the personal television channel programs. For example, television distribution facilities and Internet**

> **service providers may supplement the schedule information with information for channel maps that link certain personal television channels with digital or analog television channels on a viewer's set-top box** or that link certain personal television channels with Internet address information that may be used to locate the channels when a viewer desires to view certain personal television channel programming. At step 236, information related to the programming (e.g., program descriptions or channel descriptions) may be collected from contributors. At step 238, schedules and program information are provided to viewers. Schedules and program information may be provided to viewers directly (e.g., by transmitting this data to user equipment for use in a program guide or other interactive television application or the like). Schedules and program information may also be provided using an on-line program guide arrangement. **With this approach schedules and program information are provided *to a server that the user may access* (e.g., using a web browser or the like)**."

As seen in Ellis' Fig. 1 and the above citation, Ellis discloses that the program schedule information (the alleged "media content arranged in the user-defined layout") is collected from the Contributors (not shown in Fig. 1) and stored in a database within a data storage facility (52). Subsequently, the schedule information is distributed by the ISP to the viewers' set top box, or is accessed from the data storage (52) via a web browser by the user.

Clearly, the Examiner has misconstrued Ellis, which discloses the same distribution method (i.e., through an ISP or a storage location other than the first communication device's geographical location), and requires redistribution upon request when the user accesses the server. Accordingly, Ellis has the same deficiencies as Novak, outlined above, namely, it involves a "pull" rather than a "push". In this regard, Ellis, likewise, not only does not overcome Novak's deficiency, but also teaches away from "**the software platform is operable to push the media content ... directly** via

the communication network **to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location**," as recited in Appellant's claim 1.

Accordingly, the Appellant maintains that Novak and Ellis are not combinable references. Even if combined, Novak and Ellis, individually or in combination, still do not disclose or suggest "**the software platform is operable to push the media content ... directly** via the communication network **to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location**," as recited in Appellant's claim 1.

Accordingly, the Examiner's allegation (*see* Final Office Action, page 4) that "*to modify the system of Novak by pushing content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, as taught by Ellis, for the benefit of distributing a personal television channel* ***without need of network storage devices***" is not an articulated reasoning to establish a prima facie case of obviousness, as required by MPEP at § 2142.

Accordingly, the proposed combination of Novak and Ellis does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Appellant submits that claim 1 is allowable. Independent claims 12,

16 and 27 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Appellant submits that independent claims 12, 16 and 27 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

B. Examiner's Response to Arguments Section in the Final Office Action

The Examiner states the following in the Final Office Action (*see* page 5):

> "In response to applicant's argument that Novak (US 2002/0104099) discloses "two distinct roles for user within the media system," the examiner respectfully disagrees. As has been previously explained the upload source 122 and set top box 152 can be the same device ([0061]). The distinction between uploaders and users is for explanation purposes only and it is clear from Novak's complete disclosure that the two roles can be played by the same device, stb 152.

(B1) Even though the upload source (122) and set top box (152) can be the same device, the Appellant points out that it still does not change the argument that Novak's media content (the alleged "personal media") is uploaded into one or more other locations (such as a website (124), a local studio (106) or a network service provider (108)), prior to it being downloaded and viewed on a STB/TV (153/154) at the end user location (the alleged "second communication device associated with a second user at a second geographical location"). In other words, Novak still does not push the media content directly via the communication network to at least a second communication device associated with a second user at a second geographic location, as claimed.

More specifically, and to clarify again, Novak discloses that the end user receives the media programs through the local studio (106), the cable service provider (108) or the website (124), but only after a required "request" is made. More specifically, the upload source 122 (the alleged first communication device … at a first geographical location) or the user STB 152 (the alleged second communication device at a second geographical location) must "contact the cable service provider 108 *and request* that the synthetic channel be added to the EPG 153." By requiring that a "request" be performed before transferring the stored media, Novak teaches the exact opposite of a "push" – that is, Novak teaches a "pull" – and thus cannot correspond to Appellant's claim. Even if, by some mischaracterization of the disclosure of Novak, this were considered a "push" (a point the Appellant does not concede), the push would necessarily be performed by the cable service provider, and thus cannot be performed by the claimed "software platform", which, as the claim makes clear, resides on the "first communication device … at [the] first geographic location". Moreover, in either case, a transfer that first requires storage to await a request before proceeding, certainly cannot be construed to cover a transfer that occurs "directly via the communication network" as claimed.

In this regard, as set forth more completely above, Novak does not disclose or suggest "**the software platform is operable to push** the media content … **directly** via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location," as recited in Appellant's claim 1.

The Examiner also states the following in the Final Office Action (*see* pages 5-6):

> "In response to applicant's argument that Novak does not disclose "receiving authentication information associated with a first user of the first communication device, and facilitating a display of a user-defined selection from the media content by the first communication_device in a user-defined layout," the examiner respectfully disagrees. Novak requires a password to view the synthetic channel ([0084]) and the synthetic channel is arranged by the user ([0063]).

(B2) The Final Office Action is equating the password entered by the end user for protecting access to the synthetic channel (Novak at ¶ 0084) to Appellant's "authentication information associated with a user of the communication device," as recited in Appellant's claim 1. In other words, Novak's entered password is associated with the end user viewing the EPG 153. However, the end user does not have any control over what media is included in the media channel as such functionality is reserved for the uploader, or the upload source 122. In this regard, Novak does not disclose "wherein the selection from the media content is defined by the first user" (of the first communication device, i.e., the end user of STB 308 or 152), as recited in Appellant's claim 1.

Additionally, the Appellant notes that the authentication information corresponds to the user-defined selection, which is pushed directly from the first user to the second user. As explained above, Novak does not disclose pushing the media content … directly via the communication network from the first to the second user. Instead, Novak's media content (the alleged "personal media") is uploaded into one or more other locations (such as a website (124), a local studio (106) or a network service

provider (108)), prior to being viewed on a STB/TV (153/154) at the end user location (the alleged "second communication device associated with a second user at a second geographical location").

Therefore, even if Novak discloses "password entered by the end user for protecting access to the synthetic channel", such password cannot be equated to Appellant's "authentication information" since Novak's password is not associated with a user-defined selection that is being pushed directly from a first user to a second user.

C. Rejection of Dependent Claims 2-11, 13-15, 17-26 and 28-29

Based on at least the foregoing, the Appellant believes the rejection of independent claims 1, 12, 16 and 27 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Novak and Ellis has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-11, 13-15, 17-26 and 28-29 depend from independent claims 1, 12, 16 and 27, respectively, and are, consequently, also respectfully submitted to be allowable based on the above arguments.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-29.

CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-29 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge $540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: April 20, 2011

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CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A system for supporting multiple users of a communication device, comprising:

a first communication device communicatively coupled to a communication network at a first geographic location;

media content disposed in the communication network or the first communication device, the media content comprising personal media; and

a software platform residing on the first communication device, the software platform receiving authentication information associated with a first user of the first communication device, and facilitating a display of a user-defined selection from the media content by the first communication device in a user-defined layout,

wherein the software platform is operable to push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, and wherein the selection from the media content is defined by the first user and corresponds to the received authentication information.

2. The system according to claim 1, wherein the communication network comprises one or more of a third party media server, a media storage server, a broadband access headend, a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, a closed communication infrastructure, a local area network, and/or a wireless infrastructure.

3. The system according to claim 1, wherein the communication network comprises the Internet.

4. The system according to claim 1, wherein each of the first and second communication devices comprises one or more of a computer, a storage device, a media peripheral, set-top box circuitry, a television, a display, and/or a remote control.

5. The system according to claim 1, wherein the media content comprises one or more of third party media content, user-created media content, digital video, digital images, digital audio, documents, files, broadcast television programs, radio channels, news programming, sporting events programming, special programming, and/or on-demand movies.

6. The system according to claim 1, wherein the software platform performs on the media content one or more of accessing, sending, constructing the user-defined layout of the media content, displaying, text overlaying, voice overlaying, channel naming, managing authorship rights, managing media rights, managing billing services, and/or integrating the user-defined selection into the user-defined layout.

7. The system according to claim 1, wherein the user-defined layout comprises a channel view layout.

8. The system according to claim 1, wherein the software platform can process a plurality of user-defined selections from the media content.

9. The system according to claim 8, wherein each user-defined selection corresponds to a user-specific authentication information.

10. The system according to claim 1, wherein the authentication information comprises one or more of a pin code, a voice key code, and/or a password.

11. The system according to claim 1, wherein the consumption at the second geographic location comprises displaying the media content to the second user at the second geographic location.

12. A system for supporting multiple users of a communication device, comprising:

at least one processor disposed in a first communication device, the first communication device being communicatively coupled to a communication network, the at least one processor receiving information related to a user-defined selection from media content available on one or both of the communication network and/or the first communication device, the at least one processor receiving authentication information associated with a first user of the first communication device, and analyzing the authentication information to determine whether to display the user-defined selection via the first communication device in a user-defined layout, wherein the at least one processor is operable to push the media content arranged in the user-defined layout, directly via the communication network to at least a second communication device associated with a second user at a second geographic location for consumption at the second geographic location, and wherein the selection from the media content is defined by the first user and corresponds to the received authentication information.

13. The system according to claim 12, wherein the at least one processor sends the user-defined selection to the first communication device for display in the user-defined layout.

14. The system according to claim 13, wherein the at least one processor determines whether to send the user-defined selection to the second communication device communicatively coupled to the communication network.

15. The system according to claim 12, wherein the at least one processor is one or more of a computer processor, a media peripheral processor, a set-top box processor, a media exchange system processor, a media processing system processor, and/or a storage processor.

16. A system for supporting multiple users of a communication device, comprising:

a first display communicatively coupled to a first communication device, the first communication device associated with a first user;

a second display communicatively coupled to a second communication device, the second communication device associated with a second user;

a communication network communicatively coupled to the first communication device and the second communication device;

media content disposed in one or more of the communication network, the first communication device and/or the second communication device; and

a software platform residing on the first communication device, the software platform is operable to receive information relating to a user-defined selection from the media content and push the media content arranged in a user-defined layout, directly via the communication network to the second communication device, for consumption at the location of the second communication device, and wherein the selection from the media content is defined by the first user and corresponds to authentication information received from the first user.

17. The system according to claim 16, wherein the communication network comprises one or more of a third party media server, a media storage server, a

broadband access headend, a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, a closed communication infrastructure, a local area network, and/or a wireless infrastructure.

18. The system according to claim 16, wherein the user-defined layout comprises a channel view layout.

19. The system according to claim 16, wherein one or both of the first communication device and/or the second communication device comprise one or more of a computer, a storage device, a media peripheral, set-top box circuitry, a television, a display, and/or a remote control.

20. The system according to claim 16, wherein the media content comprises one or more of third party media content, user-created media content, digital video, digital images, digital audio, documents, files, broadcast television programs, radio channels, news programming, sporting events programming, special programming, and/or on-demand movies.

21. The system according to claim 16, wherein the software platform performs on the media content one or more of accessing, sending, constructing the user-defined layout of the media content, displaying, text overlaying, voice overlaying, channel naming, managing authorship rights, managing media rights, managing billing services, and/or integrating the user-defined selection into the user-defined layout.

22. The system according to claim 16, wherein the software platform sends the user-defined selection to the second display.

23. The system according to claim 22, wherein the sent user-defined selection is displayed in the user-defined layout.

24. The system according to claim 16, wherein the user-defined layout comprises a channel view layout.

25. The system according to claim 16, wherein the software platform can process a plurality of user-defined selections.

26. The system according to claim 25, wherein each user-defined selection corresponds to a user-specific authentication information.

27. A method to support multiple personalized views for users of a communication device, comprising:

entering a first set of authentication information via a first communication device communicatively coupled to a communication network, the first set of authentication information associated with a first user of the first communication device and corresponding to a first user-defined selection from media content.

displaying the first user-defined selection in a first user-defined layout by the first communication device upon validation of the first set of authentication information;

resetting the first communication device so that a second set of authentication information may be entered on the first communication device;

entering the second set of authentication information via the first communication device, the second set of authentication information associated with a second user of the first communication device and corresponding to a second user-defined selection from the media content;

displaying the second user-defined selection in a second user-defined layout by the first communication device upon validation of the second set of authentication

information, and wherein the first selection is defined by the first user and the second selection is defined by the second user; and

pushing the media content arranged in one or both of the first user-defined layout and/or the second user-defined layout, directly via the communication network to at least a second communication device associated with a third user for consumption at the location of the third user.

28. The method according to claim 27, wherein the first user-defined layout and the second user-defined layout comprise a channel view layout.

29. The method according to claim 27, comprising:

displaying one or both of the first user-defined selection and/or the second user-defined selection on the second communication device.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

(1) United States Pub. No. 2002/0104099 ("Novak"), entered into record by the Examiner in the March 18, 2008 Office Action.

(2) United States Patent No. 6,774,926 ("Ellis"), entered into record by the Examiner in the August 10, 2010 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

The Appellant is unaware of any related appeals or interferences.